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EXAMINER

EWART, JAMES D

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/672,359	Applicant(s) ALMASSY, NIKOLAUS P.W.	
	Examiner James D Ewart	Art Unit 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-12, 22-32 and 39-41 is/are rejected.
- 7) ☒ Claim(s) 13-21 and 33-38 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Objections to claims 1 and 5 are withdrawn.
2. The applicant's arguments regarding prior art rejections, filed March 17, 2004, have been fully considered by the Examiner, but they are not deemed persuasive. The argument that the independent claims now include the limitation that the control of the message response occurs at the mobile station have been considered but are moot in view of the new ground(s) of rejection. Examiner has provided Higuchi et al as reference for the teaching of controlling the message response at the mobile station.
3. Regarding claim 1 and 26, Examiner interprets the scheduler of Brennan et al. in Table 3 in which the call is directed to either the car, office, home or cottage combined with the message responses of table 1, which indicates a plurality of announcements, as message response groups. There could be different responses depending on the location where the call is directed or they could be the same, but examiner considers this as groups of responses.
4. Regarding claims 1 and 26, Examiner interprets the scheduler of Brennan et al. in Table 3 in which the call is directed to either the car, office, home or cottage as message response groups. As can be seen in table 1 of column 5, there are a plurality of message responses i.e. announcement 1 and announcement 8 which are associated with the identity of a calling party i.e. Lawyer and BRW.

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5. Regarding claim 4, Brennan et al. discusses selecting a message response group in response to the time of day see table 3.0 time (Time).

6. Regarding claim 5, in addition to creating message response groups which includes identities, Brennan et al teaches creating a hierarchy of message responses see special treatment of table 1 and creating a hierarchy of priority groups see table 3 (interruptability).

7. Regarding claims 6, Brennan et al shows in table 5 a calling party security code i.e. Bypass Password to provide an override message response.

8. Regarding claims 7, 22, 23, 24, 30, 39 and 40 Brennan et al discusses providing the caller ID to the subscriber and states that: "incoming call management is provided with an "an announcement of Caller Identification" which allows subscribers the decision to take a call once they know who is calling" see Column 2, Line 66 to Column 3, Line 2. The announcement could be on the display. Brennan et al goes on to say that "the pager receives and displays a numeric message entered by the caller. If the caller does not enter a digital code for transmission to the pager, the PCS can provide the pager with the CLID of the caller" see Column 9, Line 66 to Column 10, Line 2. If the subscriber does not accept the message then a message response, which would be selected according to table 1 via the name column, would be provided to the caller.

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9. Regarding claim 8, in addition to creating a hierarchy of priority groups and associating message responses and identities to the hierarchy of priority groups, Brennan et al provides a special treatment column and examiner interprets anyone of these categories under special treatment to be associated with a special identity i.e. name see table 1.

10. Regarding claims 9 and 32, in addition to creating a plurality of message response groups and creating a plurality of message response hierarchies and selecting a message response group, Brennan et al shows in table 5 identifying the priority group-message response matrix to be used for cross-referencing the located priority group i.e. table 1, special treatment column.

11. Regarding claims 10 and 11, Brennan et al teaches in Col 6, Lines 47-48 that: "Some subscribers may wish to change, at regular intervals the way their calls are managed" which examiner equates with editing the matrices to modify a relationship between a priority group and a message response and editing the matrices to modify the relationship between a calling party identity and a priority group also see figures 3b – 3e.

12. Regarding claim 41, see arguments for claims 1 and 7.

13. Regarding claim 12, Brennan et al teaches the mobile station includes a local memory, a microprocessor and a software application of microprocessor instructions (see figure 1a; 17) but the message manipulation is done by the network, however the manipulation could be done by

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the mobile device via caller ID and a processing unit and software. Davis teaches storing message responses in the local memory (Figure 5; 420).

14. Regarding claim 25, Brennan et al discusses providing the caller ID to the subscriber and states that: "incoming call management is provided with an "an announcement of Caller Identification" which allows subscribers the decision to take a call once they know who is calling" (see Column 2, Line 66 to Column 3, Line 2) which examiner equates with audible indicator. In addition, Brennan et al also states, "the pager receives and displays a numeric message entered by the caller. If the caller does not enter a digital code for transmission to the pager, the PCS can provide the pager with the CLID of the caller" see Column 9, Line 66 to Column 10, Line 2. This means that the phone provides a display indicator as well as audible indicator, but examiner must only show one of the group of indicators. Regarding the message response, Brennan et al teaches forwarding the call to another telephone (Column 3, Line 62 – Column 3, Line 14).

15. Regarding claim 27, mobile phones inherently have switches for turning the mobile phone on and off. Transistors are also considered switches. Brennan et al teaches providing the message response based on the time of day (Column 6, Lines 50-68).

16. Regarding claim 28, limitations to this claim are explained in the responses above.

17. Regarding claims 29, see argument of claim 6, Higuchi et al teaches storing message responses in the mobile phone memory (Figure 5; 420 and Column 2, Lines 63-68).

18. Regarding claim 31, see argument of claim 8, Higuchi et al teaches storing message responses in the mobile phone memory (Figure 5; 420 and Column 2, Lines 63-68).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 1, 4-12, 22-32 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al (U.S. Patent No. 5,329,578) and further in view of Higuchi et al (U.S. Patent No. 2002/0058500)

Referring to claim 1, Brennan et al teaches in a wireless communications network having at least one mobile station (Column 1, Lines 52-55 and Figure 1A 17), a method of uniquely controlling the receipt of messages (Column 1, Lines 5-12) the method comprising: providing said at least one mobile station; identifying a calling party (Column 6, Lines 15-16); creating a plurality of message response groups (Column 5, Table 1 and Table 3); selecting a message response from the plurality of message response groups (Column 5, Table 1), in response to the identity of the calling party; and supplying the selected message response (Column 5, Table 1

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and Column 9, Line 59), but does not teach controlling the messages at the mobile phone.

Higuchi et al teaches controlling the messages at the mobile phone (0009, 0058, 0059)

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of controlling the messages at the mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 4, Brennan et al further teaches wherein selecting a message response group from the plurality of message response groups includes selecting a message response group in response to factors including the time of day, communication activity level, and manual selection (Table 3.0).

Referring to claim 5, Brennan et al further teaches wherein creating a group of message responses includes creating a hierarchy of message responses; and the method further comprising: creating a hierarchy of priority groups (Column 5, Lines 13-15); inserting calling party identities into the priority groups (Column 5, Lines 13-15); creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy (Column 5, Table 1.0); and wherein selecting a message response from the group of message responses (Column 5, Lines 58-59), in response to the identity of the calling party, includes: locating the calling party in a priority group; and selecting a message response in reaction to locating the priority group (Table 1.0 and Table 3.0).

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Referring to claim 6, Brennan et al further teaches receiving a calling party security code; in response to receiving the security code, providing an override message response (Table 5.0 and Column 8, Lines 19-23 and Column 2, Lines 51 and 52).

Referring to claim 7, Brennan et al further teaches wherein the station further includes a display; and wherein the software application shows the identity of the calling party on the display, regardless of the message response selected in reaction to locating the priority group (Column 3 Lines 62-65).

Referring to claim 8, Brennan et al further teaches wherein creating a hierarchy of priority groups includes adding special identities to the hierarchy of priority groups (Column 5, Table 1); wherein creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy includes cross-referencing the special identities to message responses (Column 5, Table 1); and wherein selecting a message response from the group of message responses, in response to the identity of the calling party, includes: prior to locating a calling party identity in a priority group, locating the calling party identity in the special identities; and selecting a message response in response to locating the calling party in the special identities (Column 5, Table 1).

Referring to claim 9, Brennan et al further teaches wherein creating a plurality of message response groups includes creating a plurality of message response hierarchies (Column 5, Table 1); and the method further comprising: creating matrices of the priority group hierarchy cross-referenced to each of the plurality of message response hierarchies (Column 5, Table 1);

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and wherein selecting a message response group from the plurality of message response groups includes identifying the priority group-message response matrix to be used for cross-referencing the located priority group (Column 5, Table 1).

Referring to claim 10, Brennan et al further teaches comprising: editing the matrices to modify a relationship between a priority group and a message response (Column 6, Lines 47-55 and Figures 3b –3e).

Referring to claim 11, Brennan et al further teaches comprising: editing the matrices to modify the relationship between a calling party identity and a priority group (Column 8, Lines 47-51, Column 6, Lines 47-50 and Figures 3b –3e).

Referring to claim 12, Brennan et al teaches all the limitations of claim 12 in which the mobile station includes a local memory, a microprocessor, and a software application of microprocessor instructions (Figure 1a, 17); the method further comprising: loading the selected priority group-message response matrix into memory; locating the calling party in a priority group and selecting a message response in response to locating the priority group, but does not teach storing message responses in the local memory and controlling the messages at the mobile phone. Higuchi et al teaches storing message responses in the local memory and controlling the messages at the mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of storing message responses in the local memory and controlling the messages at the mobile phone to respond to an incoming call with a plurality of messages (0008).

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Referring to claim 41, Brennan et al teaches a wireless communications network having at least one mobile station (Column 1, Lines 52-55 and Figure 1A 17), a system to control the receipt of messages uniquely, the system comprising: said at least one mobile station having a wireless communications port to accept calls (Figure 1 a, 17); and a remote site having a wireless communication port (Figure 1a. mobile switch), a microprocessor, a software application of machine executable instructions, and a memory including a group of message responses (Figure 1 b), the remote site selecting a message response from the group of message responses in response to the identity of the calling party (Column 5, Table 1), and the remote site communicating the selected response to the mobile station (Column 5, Table 1), but does not teach controlling the messages at the mobile phone. Higuchi et al teaches controlling the messages at the mobile phone (0009, 0058, 0059). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of controlling the messages at the mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 22, Brennan et al further teaches in which the wireless communication system provides Caller ID services; and wherein identifying the calling party includes using the Caller ID service to identify the calling party (Column 3, Lines 62-68).

Referring to claim 23, Brennan et al further teaches wherein identifying a calling party includes determining a calling party identity from factors including the complete phone number, area code, unknown number, and blocked number (Column 4, Lines 52-54).

Referring to claim 24, Brennan et al teaches a wireless communications network having at least one mobile station (Column 1, Lines 52-55 and Figure 1A 17), a system to control the receipt of messages uniquely, the system comprising: a wireless communications port to accept calls (Fig 1a), including a microprocessor (Fig 12c; 48 & 50), a software for application of machine executable instructions (Fig 12c; 50), and identifying a calling party (Column 5, Table 1) and selecting a message response from the group of message responses (Column 5; Table 1) in response to the identity of the calling party, but does not teach wherein the control of the message responses occurs at the mobile phone and the mobile phone includes memory to hold the message responses. Higuchi et al wherein the control of the message responses occurs at the mobile phone and the mobile phone includes memory to hold the message responses (0045). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al wherein the control of the message responses occurs at the mobile phone and the mobile phone includes memory to hold the message responses to respond to an incoming call with a plurality of messages (0008).

Referring to claim 25, Brennan further teaches wherein the mobile station further includes indicators selected from the group including audible indicators (Column 2, Line 66 to Column 3, Line 2), vibrator indicators, and a visual display indicators; and wherein message responses include responses selected from the group including: using an indicator to alert, not using an indicator to alert, responding with a busy signal, not alerting and recording the message, and forwarding the call to another telephone (Column 3, Line 62 – Column 3, Line 14).

Referring to claim 26, Brennan et al further wherein the stored message response group is a message response group selected from a plurality of stored message response groups (Column 5, Lines 4 - 5 and Table 1 and Table 3)

Referring to claim 27, Brennan et al further teaches wherein the message response group stored in memory is selected in response to factors including the time of day, communication activity level (Table 3.0), but does not teach using a switch for manual selection of a message response. Higuchi et al teaches using a switch for manual selection of a message response (0011). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a switch for manual selection of a message response to respond to an incoming call with a plurality of messages (0008).

Referring to claims 28 and 31, Brennan et al further teaches wherein creating a group of message responses includes creating a hierarchy of message responses (Column 5, table 1); and the method further comprising: creating a hierarchy of priority groups (Column 5, Lines 13-15); inserting calling party identities into the priority groups (Column 5, Table 1); creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy (Column 5, Table 1.0); and wherein selecting a message response from the group of message responses (Column 5, Lines 58-59), in response to the identity of the calling party, includes: locating the calling party in a priority group; and selecting a message response in reaction to locating the priority group (Column 5, Table 1.0).

Referring to claim 29, Brennan et al further teaches the memory includes an override priority group; wherein the mobile station receives a calling party security code to trigger the override priority group (Table 5.0); and wherein the software application provides the override message response from memory in response to receiving the security code (Column 8, Lines 19-23 and Column 2, Lines 51 and 52), but does not teach a mobile phone with a memory having a group of message responses. Higuchi et al teaches a mobile phone with a memory having a group of message responses (0008). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a mobile phone with a memory having a group of message responses to respond to an incoming call with a plurality of messages (0008)

Referring to claim 30, Brennan et al further teaches wherein the station further includes a display; and wherein the software application shows the identity of the calling party on the display, regardless of the message response selected in reaction to locating the priority group (Column 3 Lines 62-65).

Referring to claim 32, Brennan et al further teaches wherein the memory includes a plurality of message response hierarchies, and matrices of the priority group hierarchy cross-referenced to each of the plurality of message response hierarchies; and wherein the software application identifies the priority group-message response matrix to be used for cross-referencing the located priority group (Column 5, Table 1).

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Referring to claim 39, Brennan et al further teaches which the wireless communication network provides Caller ID services and identifies the calling party using the Caller ID services provided by the wireless communications network (Column 3, Lines 62-68), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 40, Brennan et al further teaches wherein the software application identifies a calling party from factors including the complete phone number, local area exchange, area code, unknown number, and blocked number (Column 4, Lines 52-54), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Allowable Subject Matter

20. Claims 13-21 and 33-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Referring to claim 13, the references cited do not teach loading the priority group-message response matrices into local memory; and wherein selecting a message response group from the plurality of message response groups includes using the software application to select a priority group-message response matrix from memory for use in cross-referencing the located priority group.

Referring to claim 14, the references cited do not teach loading the priority group-message response matrices into the remote memory; and wherein selecting a message response group from the plurality of message response groups includes loading a priority group-message response matrix, into local memory from the remote memory, for use in cross-referencing the located priority group.

Referring to claim 21, Brennan et al further teaches in which a remote site memory, software application of machine executable instructions, and microprocessor are included; and the method further comprising: loading the priority group-message response matrices into remote memory; and wherein selecting a message response group from the plurality of message response groups includes using the remote site software application to select a priority group-message response matrix from remote memory for use in cross-referencing the located priority group; and wherein supplying the message response includes supplying the message response to the mobile station from the remote site (Column 4, Line 55-66 and Table 1 on Column 5).

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Referring to claim 33, the references cited do not disclose wherein the mobile station port accepts a priority group message response matrix transmitted by the remote memory for storage in the mobile station memory.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D Ewart whose telephone number is (703) 305-4826. The examiner can normally be reached on M-F 7am - 4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703)308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.


James Ewart
March 24, 2004


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